

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

CHRISTOPHER A. SETTLE,

Plaintiff,

v.

CIVIL ACTION NO. 5:18-cv-00750

MICHAEL FRANCIS, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On April 30, 2018, the Plaintiff, proceeding *pro se*, filed his *Complaint* (Document 2) in this matter. Subsequently, on July 24, 2018, the Plaintiff filed an amended *Complaint* (Document 12). By *Standing Order* (Document 3) entered on April 30, 2018, this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On June 25, 2019, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 45) wherein it is recommended that this Court this Court: dismiss the Plaintiff's amended *Complaint* (Document 12) without prejudice; deny as moot *Defendant Michael Francis' Motion to Dismiss Plaintiff's Amended Complaint* (Document 23); deny as moot Defendants' *Motion to Dismiss Amended Complaint or in the Alternative Motion for Summary Judgment by Primecare Medical of West Virginia, Inc., and Brittany Foster, LPN* (Document 27); deny as moot *Defendant Michael Francis' Supplemental Motion to Dismiss Plaintiff's Amended Complaint* (Document 41);


and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by July 12, 2019, and none were filed by either party.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that: the Plaintiff's amended *Complaint* (Document 12) be **DISMISSED without prejudice**; the Defendant Michael Francis' *Motion to Dismiss Plaintiff's Amended Complaint* (Document 23) be **DENIED AS MOOT**; the Defendants' *Motion to Dismiss Amended Complaint or in the Alternative Motion for Summary Judgment by Primecare Medical of West Virginia, Inc., and Brittany Foster, LPN* (Document 27) be **DENIED AS MOOT**; the Defendant Michael Francis' *Supplemental Motion to Dismiss Plaintiff's Amended Complaint* (Document 41) be **DENIED AS MOOT**; and this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: July 22, 2019


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA